

**Introduced by Senator Hollingsworth**

February 27, 2009

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An act to add Section 653.77 to the Penal Code, relating to monitoring devices.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 566, as introduced, Hollingsworth. Monitoring devices: unauthorized removal, disabling, or tampering.

Existing law provides various programs of in-home detention and monitoring, and regulates conduct on parole, including requiring parolees to wear global positioning system (GPS) devices, as specified.

This bill would make the unauthorized removal, disabling, or tampering with a GPS device affixed as a condition of a criminal court order, juvenile court disposition, parole, or probation a crime, punishable as specified. The bill would require the court, if applicable, to order restitution in an amount equivalent to the replacement cost of the electronic, GPS, or other monitoring device. By creating new crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 653.77 is added to the Penal Code, to read:

653.77. (a) Any person who willfully removes, disables, or tampers with an electronic, global positioning system (GPS), or other monitoring device affixed to his or her person, or the person of another, knowing that the device was affixed as a condition of a criminal court order, juvenile court disposition, parole, or probation, is guilty of a public offense.

(b) (1) Any person subject to an electronic, GPS, or other monitoring device based on a misdemeanor conviction, a juvenile adjudication for a misdemeanor offense, or a criminal court order pending the adjudication of a misdemeanor who willfully violates subdivision (a) is guilty of misdemeanor, punishable by imprisonment in a county jail for up to one year, by a fine of up to one thousand dollars (\$1,000), or by both that fine and imprisonment. If applicable, the court shall also impose restitution in an amount equivalent to the replacement cost of the electronic, GPS, or other monitoring device.

(2) Except as provided in subdivision (e), any person who willfully removes, disables, or tampers with an electronic, GPS, or other monitoring device affixed to another person where that device was affixed to the other person based on a misdemeanor conviction, a juvenile adjudication for a misdemeanor offense, or a criminal court order pending the adjudication of a misdemeanor is guilty of misdemeanor, punishable by imprisonment in a county jail for up to one year, by a fine of up to one thousand dollars (\$1,000), or by both that fine and imprisonment. If applicable, the court shall also impose restitution in an amount equivalent to the replacement cost of the electronic, GPS, or other monitoring device.

(c) (1) Any person subject to an electronic, GPS, or other monitoring device based on a felony conviction, a juvenile adjudication for a felony offense, a condition of parole or probation for a felony offense, or a criminal court order pending the adjudication of a felony, who willfully violates subdivision (a) is guilty of a felony, punishable by imprisonment in the state prison for 16 months, or 2 or 3 years. If applicable, the court shall also impose restitution in an amount equivalent to the replacement cost of the electronic, GPS, or other monitoring device.

1 (2) Except as provided in subdivision (e), any person who  
2 willfully removes, disables, or tampers with an electronic, GPS,  
3 or other monitoring device affixed to another person, where that  
4 device was affixed to the other person based upon a felony  
5 conviction, juvenile conviction for a felony offense, or a criminal  
6 court order pending the adjudication of a felony, is guilty of a  
7 felony, punishable by imprisonment in the state prison for 16  
8 months, or 2 or 3 years. If applicable, the court shall also impose  
9 restitution in an amount equivalent to the replacement cost of the  
10 electronic, GPS, or other monitoring device.

11 (d) This section shall not apply to the removal or disabling of  
12 an electronic, GPS, or other monitoring device by a physician,  
13 emergency medical services technician, or any other emergency  
14 response or medical personnel when doing so is necessary during  
15 the course of medical treatment of the person subject to the  
16 electronic, GPS, or other monitoring device. This section shall  
17 also not apply where the removal or disabling of the electronic,  
18 GPS, or other monitoring device is authorized, or required, by a  
19 court of law or by the law enforcement, probation, or parole  
20 authority, or any other entity responsible for either placing or  
21 monitoring the electronic, GPS, or other monitoring device upon  
22 the person.

23 (e) For the purposes of this section, “global positioning system”  
24 or “GPS” refers to a network of 24 satellites that orbit the earth  
25 and make it possible for people with ground receivers to pinpoint  
26 their geographic location. A GPS monitoring device means an  
27 electronic device worn by a person, commonly in the form of an  
28 ankle bracelet, that emits a signal denoting the person’s geographic  
29 location, whether the person is moving or is stationary.

30 SEC. 2. No reimbursement is required by this act pursuant to  
31 Section 6 of Article XIII B of the California Constitution because  
32 the only costs that may be incurred by a local agency or school  
33 district will be incurred because this act creates a new crime or  
34 infraction, eliminates a crime or infraction, or changes the penalty  
35 for a crime or infraction, within the meaning of Section 17556 of  
36 the Government Code, or changes the definition of a crime within  
37 the meaning of Section 6 of Article XIII B of the California  
38 Constitution.

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